

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

GREAT NORTHERN INSURANCE COMPANY	:	
as Subrogee of Jon and Abby Winkelried	:	CIVIL ACTION NO:
Plaintiff	:	05cv10165 RGS
vs.	:	
	:	
FERGUSON & SHAMAMIAN ARCHITECTS, LLP, et al.:	:	
Defendants	:	

**PLAINTIFF'S RESPONSE TO DEFENDANT FERGUSON & SHAMAMIAN
ARCHITECTS, LLP'S STATEMENT OF UNDISPUTED MATERIAL FACTS AND
COUNTERSTATEMENT OF MATERIAL FACTS IN DISPUTE**

Pursuant to Local Rule 56.1, plaintiff hereby responds to Defendant Ferguson & Shamamian Architects, LLP's Statement of Undisputed Material Facts as follows:

1. Admitted.
2. Admitted.
3. Admitted.
4. Admitted.
5. It is admitted that plaintiff Great Northern Insurance Company insured the Winkelrieds for the damage sustained as a result of this Incident.
6. Admitted.
7. Admitted.
8. Admitted.
9. Admitted.
10. Admitted.

In addition plaintiff states that the following material facts are in dispute:

1. Whether the parties intended the notice provision in the contract to apply after the project was completed.
2. The time and manner in which defendant Ferguson & Shamamian Architects, LLP (“FSA”) was placed on notice of this claim.
3. Whether FSA’s negligent design contributed to the Pipe freeze.
4. The time when plaintiff reasonably should have been aware of its claim against defendant FSA.
5. The time when the claim against FSA arose.
6. Whether John Trebby was acting as an agent of the Winkelrieds after the Incident.

Respectfully submitted,

COZEN O’CONNOR

s/ Robert M. Caplan
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